IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.76 OF 2005

Janardhan @ Balu Shantaram Shirke ...Petitioner

Versus

The State of Maharashtra & Ors. ...Respondents

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Mr.N.N.Gawankar for Petitioner.

Mr.V.B.Konde-Deshmukh, A.P.P. for Respondents.

.....

CORAM: A.M.KHANWILKAR, J.

FEBRUARY 7, 2005.

P.C.

1. Heard Counsel for the parties.

2. Rule. Rule made returnable forthwith, by consent. Mr.Konde-Deshmukh, A.P.P. waives notice for Respondents.

3. As short question is involved, the matter is taken up for final disposal forthwith, by consent.

4. This Petition takes exception to the order passed by the Deputy Inspector General of Prisons dated September 7, 2004 rejecting the Petitioner's request for furlough leave. Essentially four grounds are stated in the order. The first ground is that the Applicant overstayed the leave on the earlier occasion. Secondly, that while on furlough leave, Applicant failed to report to the Police Station. Thirdly, that while on furlough leave, offence (N.C.) has been registered against the Applicant and lastly, that police report is unfavourable.

5. All these reasons cannot be sustained, as it is rightly contended that similar reasons were recorded on the earlier occasion, which order was questioned before this Court and this Court, while allowing Criminal Writ Petition No.276 of 2003, noted that after the Petitioner had overstayed on the earlier occasion, he had been released on furlough leave on two occasions thereafter, and the Petitioner reported on time on those occasions. The same reason would apply even while considering the present Application and if so applied, the

order as passed by the Authority, cannot be sustained. The only additional reason, perhaps, is that while the Applicant was on furlough leave, one N.C. complaint has been registered against him. However, there is nothing on record to suggest that the offence was so serious, so as to deny furlough leave to the Petitioner as prayed. Accordingly, this Petition succeeds.

6. The Respondents are directed to release the Petitioner Janardhan @ Balu Shantaram Shirke on furlough as per the rules.

7. Rule made absolute on the above terms. Petition disposed of accordingly.

A.M.KHANWILKAR, J.